

APPEAL NO. 010001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 11, 2000. With regard to the issue before him, the hearing officer determined that the respondent (claimant) sustained a compensable injury on _____. In its appeal, the appellant (carrier) argues that the hearing officer's injury determination is against the great weight of the evidence. In his response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

The claimant testified that he injured his back while moving tires at work on _____. The claimant notified his employer the following day that an injury had occurred and sought medical attention at the hospital. The medical records indicate that the claimant was diagnosed with lumbar muscle spasms. The claimant testified that prior to _____, he had sustained several other injuries, including one to his neck, however; he denied that any of his prior injuries involved his back. The hearing officer noted that, contrary to the claimant's testimony, the medical records indicated that he had received treatment to his back prior to _____. Nevertheless, the hearing officer found that the claimant sustained a compensable injury on _____.

The hearing officer is the sole judge of the weight and credibility of the evidence, including the medical evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). An injury issue can be established by the testimony of the claimant alone, if it is credited by the hearing officer. Texas Workers' Compensation Commission Appeal No. 92069, decided April 1, 1992. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Sufficient evidence supports the hearing officer's determination that the claimant sustained a compensable injury and nothing in our review of the record reveals that the injury determination is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Kenneth A. Huchton
Appeals Judge

Thomas A. Knapp
Appeals Judge